

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of)	
)	
Closed Captioning and)	
Video Description of Video)	
Programming)	MM Docket No. 95-176
)	
Implementation of Section 305)	
of the Telecommunications Act)	
of 1996)	
)	
Video Programming Accessibility)	

To: The Commission

REPLY COMMENTS OF THE
RADIO-TELEVISION NEWS DIRECTORS ASSOCIATION

The Radio-Television News Directors Association ("RTNDA"), by its attorneys and pursuant to Sections 1.430 and 1.415 of the Commission's rules, 47 C.F.R §§ 1.430, 1.415, hereby submits its reply to the comments filed in response to the *Further Notice of Proposed Rulemaking* ("Further Notice") in the above-captioned proceeding.¹

¹ *Closed Captioning and Video Description of Video Programming*, FCC 98-3, released January 14, 1998 (*Further Notice of Proposed Rulemaking* in MM Docket No. 95-176).

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I. SUMMARY

The record in this proceeding firmly supports the conclusion that broadcasters should be given the discretion to choose whether to use closed captioning or visual display, or some combination of these methods, to relay emergency information to the hearing-impaired audience. While acknowledging the understandable desire of the hearing-impaired community, as expressed through the comments of its advocates, to have access to "all manners of televised programming" through closed captioning, in crafting the rules to implement Section 713, the Commission must heed, as it did in establishing general rules governing closed captioning just seven months ago,² Congress's directive that the agency afford due consideration to the economic burdens that may attend certain captioning methodologies as they are applied to video programming providers.

Because emergency information by its nature arises on short notice, emergency programming can only be captioned in real time. This captioning methodology is extremely costly, services are currently in short supply, and the delivery of real time captioning might well be disrupted by emergency conditions. The economic burdens and logistical difficulties inherent in any requirement to caption all emergency programming make such regulation impractical and infeasible. Moreover, such a requirement is neither necessary to, nor the best means of, achieving the goal of ensuring the accessibility of emergency information to

² Report and Order, MM Docket No. 95-176 (released August 22, 1997) ("*Report and Order*").

hearing-impaired viewers. As currently provided in the FCC's rules, any method of visually presenting emergency information should be deemed acceptable.

II. DISCUSSION

A. The Cost Of Real Time Captioning, The Limited Supply Of Captioners, And Logistical Realities Make Additional Captioning Requirements For Emergency Information Impractical And Infeasible

As several of the commenters note, because emergency information, by its nature, arises on short notice, a captioning requirement for emergency programming necessarily prescribes real time captioning. Yet, as the Commission itself has determined, the cost of real time captioning services is exponentially high, and such services are currently in short supply.

The record leaves no doubt that to satisfy a real time captioning requirement, video programming providers would be faced with substantial costs. They would either have to add real time captioners to their staffs or contract with a remote captioning service. The cost of merely installing the necessary equipment to access a remote service would be approximately \$10,000. The hourly rates for captioning of emergency information with very little lead time are unclear – estimates range from \$300 to \$1200 an hour to have captioners either at a remote location or locally “on standby” during emergencies to ensure that breaking news is captioned in real time.

Moreover, there may not be enough trained captioners available, particularly in the case of a broad scale emergency, or an emergency which occurs with very little warning, or

one which occurs during overnight hours. Even Caption Colorado, which suggests that it might be “feasible to require video program providers to supply realtime closed captions for emergency information programming,” admits that “it is difficult for . . . anyone to estimate the number of realtime captionists currently available for work.”

Just seven months ago, in its *Report and Order*, the Commission declined to adopt any limits on the methodology that can be used to create closed captioning and to permit the use of ENR. The Commission’s decision was based not only on the existing shortage of real time captioning services, but also on evidence that expansion of real time captioning capability would take significant time because of the training needed and the superior stenographic skills required. Not one of the parties responding to the Commission’s *FNPRM* suggests that those underlying realities have changed. Notwithstanding the anticipated increase in the availability of real time captioners in response to the rules adopted in the Commission’s *Report and Order*, it is evident that not all broadcasters and other video programming providers in an affected region would be able to obtain captioning services in an emergency at any time in the near future.

The record in this proceeding underscores the conclusion that remote captioning services would not provide a solution to the numerous problems that would be created for video programming providers through imposition of a second, more rigorous layer of regulation for captioning of emergency information. The Commission was well aware of the cost and technical obstacles to using remote captioning services when it found in its *Report and Order* that the scarcity of real time services warranted permitting the use of ENR captioning. Moreover, the delivery of such captioning services, particularly if provided

remotely, might well be disrupted by the emergency conditions themselves. Certainly, for a station to base its ability on a system relying on telephone services that might be disrupted by emergency weather or other disastrous conditions would be unwise.

Logistical difficulties and the exorbitant costs of real time captioning aside, given limited supply and exponentially increased demand, whether video programming providers sought captioning services locally or remotely, it is evident that at least some would be unable to caption their emergency programming in real time. Thus, any requirement that all affected program providers caption their emergency information would inevitably result in unavoidable rule violations by those providers losing the competition for scarce captioning services. As CBS suggests in its comments, such a result is neither fair nor good public policy.

**B. Emergency Information Can Be And Is Timely
Provided To The Hearing-Impaired Using
Alternate Methods**

While the comments received in response to the *FNPRM* are short on specific and realistic ways to provide for universal real time captioning of emergency information, they are replete with evidence that video programming providers, through a variety of methods, ensure that hearing-impaired viewers timely receive essential information.

The current rules applicable to broadcasters foster the communication of critical information to viewers with hearing disabilities by validating any method that accomplishes the task. Many commenters, including RTNDA, described the variety of effective means utilized by video program providers to timely convey emergency information to the hearing-impaired. ABC, for example, describes how text may be “crawled” at the bottom of the

screen and during other programming, or displayed on full-screen billboards or “squeezed back” screens during news or other programs. For many emergency conditions, such as weather or traffic conditions, substantial information can be displayed graphically with diagrams or maps, often with explanatory text.

While the Commission has expressed some concern that the Emergency Alert System (“EAS”), which requires that emergency messages be textually displayed, does not provide viewers sufficient access to local and regional emergencies because broadcasters are only required to use EAS in national emergencies, the record evidence of broadcasters’ use of EAS in local and regional emergencies makes clear that there is no basis for the Commission’s concern. Each state has an EAS plan and numerous broadcast stations voluntarily and actively participate in such plans on the state and local levels. Such participation is not limited to broadcasters. As the National Cable Television Association points out, many cable systems voluntarily participate in their state and local EAS operations and have installed or will be installing equipment, consistent with the FCC’s EAS rules, capable of providing all of their viewers with audio and video messaging about local emergencies.

Given existing FCC rules governing the broadcast of emergency information, and the diligent efforts of video program providers to transmit critical emergency information to all viewers through a variety of aural and visual means, RTNDA submits that the relative benefit to viewers with hearing disabilities of requiring emergency information to be closed captioned, particularly when juxtaposed against the significant economic and logistical

burdens such a requirement would impose on video programming providers, would be minimal.

III. CONCLUSION

RTNDA agrees with the majority of commenters that a flexible regulatory approach is particularly well-suited to the conveyance of information in emergency settings, when licensees need to rush information onto the air. It would be impractical, infeasible, and counterproductive to adopt a rigid dictate that all emergency programming be captioned. The cost of real time captioning is exorbitantly high, and the number of real time captioners limited. A requirement that all emergency information be closed captioned would leave program providers scrambling to provide emergency information using a method that supply shortages, and even the emergency conditions themselves, would likely prevent.

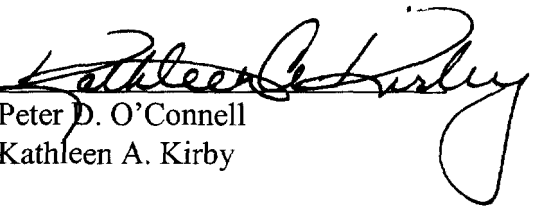
RTNDA respectfully submits that the Commission should decline to adopt any requirement that emergency information must be conveyed using real time captioning

services, and continue to rely on the flexible approach embodied in its current rules.

Respectfully submitted,

**THE RADIO-TELEVISION NEWS
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March 26, 1998

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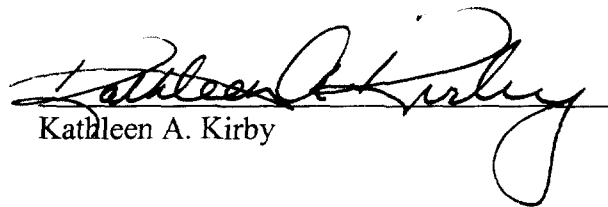
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